

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Civil Revision Petition No.5187 of 2018

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Judge, Additional Family Court, Hyderabad, in I.A.No.1371 of 2017 in O.P.No.1404 of 2015 dated 08.08.2018. The respondent herein filed the application under Section 24 of the Hindu Marriage Act requesting the Court to grant Rs.30,000/- per month towards interim maintenance and Rs.20,000/- towards legal expenses, pending disposal of the main O.P.

While the petitioner would cast aspersions on the chastity of the respondent, these are all matters which are required to be examined by the Court below in the divorce O.P. filed by the respondent herein i.e O.P.No.1404 of 2015. In the present revision, this Court is concerned only with the order passed by the Court below directing the petitioner herein to pay monthly maintenance at Rs.6,000/- plus Rs.10,000/- towards legal expenses.

In the order under revision, the Court below took note of the fact that the petitioner herein was the owner of a three storied building situated in Aravind Nagar Colony, Domalguda, Hyderabad, which is a busy area. It held that he must, therefore, be getting considerable amount towards rent after residing therein along with his family; and since the petitioner had admitted that he was a private employee, he must be receiving monthly salary. The Court below also took note of the fact that the petitioner had recently gone to the USA for higher studies and observed that, unless he was financially sound, it would not be possible for him to go abroad to

pursue higher studies. Taking note of the respondent's occupation, a sum of Rs.6,000/- per month towards interim maintenance was granted in favour of the respondent herein under Section 24 of the Hindu Marriage Act.

The Court below has assigned valid reasons for coming to the conclusion that Rs.6,000/- per month should be paid as interim maintenance to the respondent herein. Under Article 227 of the Constitution of India, the High Court may interfere in case of errors of law apparent on the record, (as distinguished from a mere mistake of fact), arbitrary or capricious exercise of authority or discretion, a patent error in procedure, or where it results in manifest injustice. Interference would be justified if the subordinate court/tribunal has come to a conclusion without any evidence or upon manifest misreading of the evidence thereby indulging in improper exercise of jurisdiction. If the evidence on record, on a question of fact, has not been taken into consideration, or if relevant and material documents have been ignored while arriving at the finding of fact by the inferior court/tribunal, such finding must be held to be lacking in factual basis. (**Achutananda Baidya v. Prafulla Kumar Gayen**¹; **Mani Nariman Daruwala Alias Bharucha (Deceased) Through Lrs. v. Phiroz N. Bhatena**²; **Baby v. Tranvancore Devaswom Board**³). Findings of fact can also be set aside or ignored if there is no evidence or the finding is so perverse that no reasonable person can possibly come to the conclusion which the Court has come to. (**Estralla Rubber v. Dass Estate (P) Ltd**⁴; **Mohan Amba Prasad Agnihotri v. Bhaskar Balwant Aher**⁵). Mere errors of fact or of law

¹ AIR 1997 SC 2077

² (1991) 3 SCC 141

³ (1998) 8 SCC 310

⁴ (2001) 8 SCC 97

⁵ (2000) 3 SCC 190

cannot be corrected unless (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. (**Baby³**). Since the order passed by the Court below is a reasoned and well-considered order, it does not warrant interference by this Court in proceedings under Article 227 of the Constitution of India.

The Civil Revision Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs.

Date:12.10.2018.

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(RAMESH RANGANATHAN, J)

